

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 12/30/2010 have been fully considered but they are not persuasive.

Applicant argues that the combination of Jaisimha and Robbin does not explicitly teach the determining if the computing device has the authority to record is based on a predetermined protocol with the source, wherein the predetermined protocol is based on encryption and decryption keys shared with the source.

In response, the examiner respectfully disagrees. Jaisimha teaches the media file encoder uses a private key protocol such as DES (digital encryption standard) wherein both the media file encoder and a decoding entity such as, for example, the media player, share a private key in column 9 and lines 37-45.

Applicant argues that the combination of Jaisimha and Robbin does not explicitly teach the linked set of components does not include the recording component if the computing is determined not to have the authority to record the multimedia content.

In response, the examiner respectfully disagrees. Robbin teaches in Fig. 3 and Fig. 4 that when the device does not have the authority to record, the button at the upper right corner is a refresh button. When the device has the authority to record, the button at the upper right corner is a burn CD button.

Applicant argues that the combination of Jaisimha and Robbin does not explicitly teach the user interface component is destroyed when a differing view of the user interface component is chosen.

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In response, the examiner respectfully disagrees. Jaisimha teaches in Fig. 3 that the user has the options of choosing "DOWNLOAD FOO CLIP FOR MOBILEPLAYBACK" and "PLAY FOO CLIP NOW". After the user chooses either one of them, the user interface will change to either downloading or playing the clip.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 44-46 and 59 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material.” In this context, “functional descriptive material” consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of “data structure” is “a physical or logical relationship among data elements, designed to support specific data manipulation functions.” The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) “Nonfunctional descriptive material” includes but is not limited to music, literary works, and a compilation or mere arrangement of data.

Both types of “descriptive material” are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)(discussing patentable weight of data structure limitations in the context of a statutory claim to a data structure stored on a computer readable medium that increases computer efficiency) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claims 44-46 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory matter as follows. Claims 44-46 define a computer readable medium embodying functional descriptive material. However, the claimed computer readable medium can be broadly interpreted to encompass non-statutory subject matter such as “signal”, “carrier wave”, or “transmission medium”. A “signal” embodying functional descriptive material is neither a process nor a product (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of 35 U.S.C. 101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material.

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory. The examiner suggests amending the claim to include the disclosed non-transitory computer readable medium, while at the same time excluding the transitory computer readable medium such as signals, carrier waves, etc. Any amendment to the claim should be commensurate with its corresponding disclosure.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims are 1-7, 15, 18-20, 29-31, 33, 34, 36-40, 42, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2).

Consider claims 1, 20, and 29, Jaisimha et al. teach a method implemented on a computing device by a processor configured to execute instructions, that, when executed by the processor, direct the computing device to perform acts comprising: receiving multimedia content from a source (Fig. 5); creating a linked set of components to process the multimedia content (col. 8, lines 28-30 and col. 9, lines 16-23); determining if the computing device has an authority to record the multimedia content (col. 13, lines 19-28 and Fig. 8B), wherein the determining if the computing device has

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the authority to record is based on a predetermined protocol with the source, wherein the predetermined protocol is based on encryption and decryption keys shared with the source (col. 9, lines 37-45); selectively providing a recording component in the linked set of components to record the multimedia content if the computing device is determined to have the authority to record the multimedia content (col. 13, lines 19-28); and rendering the multimedia content with use of the linked set of components (col. 12, lines 52-61 and Fig. 8B) but does not explicitly teach the linked set of components does not include the recording component if the computing device is determined not to have the authority to record the multimedia content; and establishing a user interface component to the recording component (col. 13, lines 22-25), wherein the user interface component has a view associated therewith, wherein the user interface component is destroyed when a differing view of the user interface component is chosen (Fig. 3).

Robbin teaches the linked set of components does not include the recording component if the computing device is determined not to have the authority to record multimedia content (Fig. 3 and Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the techniques of not including the recording component in the linked set of components if the computing device is determined not to have the authority to record the multimedia content so that the user will be clear about whether the multimedia content can be recorded.

Consider claims 2, and 31, Jaisimha et al. teach the method wherein the receiving is from an Internet website (Fig. 5).

Consider claim 3, Jaisimha et al. teach the method wherein the receiving comprises protected multimedia content (claim 8)

Consider claim 4, Jaisimha et al. teach the method wherein the receiving comprises encrypted multimedia content and the determining is based as to the ability to decrypt the multimedia content (claim 13).

Consider claim 5, Jaisimha et al. teach the method wherein the creating comprises components to render the multimedia content whether providing a recording component is performed or not (col. 12, lines 52-61).

Consider claims 6 and 34, Jaisimha et al. teach the method wherein the creating is performed for every instance multimedia content is received (col. 10, lines 24-32).

Consider claim 7, Jaisimha et al. teach the method wherein the linked set of components is destroyed once rendering is complete (the user can close the RealPlayer once the rendering is complete).

Consider claim 15, Jaisimha et al. teach the method wherein the providing is based on the recording component being registered to be installed in the linked set of components (since the Recording component comes with the RealPlayer, it is registered to be installed in the linked set of components, col. 13, lines 19-28).

Consider claim 18, Jaisimha et al. teach the method wherein the user interface component is part of a media player that comprises the linked set of components (col. 13, lines 22-25).

Consider claim 19, Jaisimha et al. teach the method wherein the user interface component is external to a media player that comprises the linked set of components (the user uses a mouse (user interface that is external to the media player) to click on the record command button, col. 13, lines 22-25).

Consider claim 30, Jaisimha et al. teach the computer wherein the multimedia content comprises audio content and video content (col. 12, lines 52-61).

Consider claim 33, Jaisimha et al. teach the computer wherein the linked set of components comprises a recording component (col. 13, lines 19-28).

Consider claim 36, Jaisimha et al. teach the computer wherein the means for storing comprises setting a flag in a recording component to indicate that the computing device has the authority to record the multimedia content (col. 13, lines 28-35).

Consider claim 37, Jaisimha et al. and Robbin teach a computer comprising: a memory (col. 5, lines 30-50); a processor coupled to the memory (col. 5, lines 30-50 of Jaisimha et al.); and instructions stored in the memory and executable on the processor to access streaming multimedia content from a source (Fig. 5 of Jaisimha et al.), render the streaming multimedia content by creating a linked set of components (col. 12, lines 52-61 of Jaisimha et al.), determine if the computer has an authority to record the streaming multimedia content (col. 13, lines 19-28 and Fig. 8B of Jaisimha et al.), selectively initiate a recording component to record the multimedia content if the computer is determined to have the authority to record the streaming multimedia content (Fig. 8B and col. 13, lines 19-28 of Jaisimha et al.), and store the streaming multimedia content to a local storage device (Fig. 8B of Jaisimha et al.), with the

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recording component being omitted if the computer is determined not to have the authority to record the multimedia content (Fig. 8A, Fig. 8B, and col. 12, lines 52-61 of Jaisimha et al. and Fig. 3 and Fig. 4 of Robbin).

Consider claim 38, Jaisimha et al. teach the computer wherein the streaming multimedia content is received from an Internet website (Fig. 5).

Consider claim 39, Jaisimha et al. teach the computer wherein the streaming multimedia comprises encrypted multimedia content (claim 8 and claim 13).

Consider claim 40, Jaisimha et al. teach the computer wherein the computer has the authority to record the multimedia content if the computer is able to decrypt the encrypted multimedia content (claim 13).

Consider claim 42, Jaisimha et al. teach the computer wherein the instructions further comprise providing a user interface to initiate rendering and recording (col. 5, lines 42-49, RealPlayer has user interface (play button) for rendering and col. 13, lines 19-28).

Consider claim 58, Jaisimha et al. teach the computer wherein the user interface component is destroyed when a differing view of the user interface component is chosen (Fig. 3)

3. Claims 11-14, 21, 23-28, 35, 41, 44, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2) and Kimura (US 6,744,975 B1).

Consider claim 11, Jaisimha et al. and Robbin teach all the limitations in claim 1 but fail to explicitly teach the method wherein the providing a recording component

comprises a writer component connected to the recording component which stores the multimedia content to a local storage device.

Kimura teaches the method wherein the providing a recording component comprises a writer component connected to the recording component which stores the multimedia content to a local storage device (18, 21, 22, and 23 of Fig. 1 are the equivalents of the write component). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the writer component to store the multimedia content in a local storage device for later viewing.

Consider claim 12, Kimura further teaches the method wherein the multiplexes audio and video content (15 of Fig. 1).

Consider claim 13, Kimura further teaches the method wherein the writer component compresses the multimedia prior to storing to the local storage device (12 and 14 of Fig. 1).

Consider claim 14, Kimura further teaches the method wherein the writer component makes use of a predetermined protocol to store the multimedia content to the local storage device, where the predetermined protocol is used to play back the multimedia content (col. 4, lines 29-32).

Consider claim 35, Kimura teaches the computer wherein the means for storing comprises a writer component that is initiated if multimedia content is authorized to be stored (col. 5, lines 10-22).

Consider claim 41, Kimura teaches the computer wherein the instructions further comprise separating the multimedia content into audio content and video content that are rendered separately (Fig. 1).

Consider claim 44, Jaisimha et al. Robbin, and Kimura teach a computer-readable medium having computer-executable instructions, which, when executed by a computer-implement a method or system comprising: contacting a server computer to send multimedia content (Fig. 5 of Jaisimha et al.); receiving the multimedia content (Fig. 5 of Jaisimha et al.); determining if the computer has the authority to record the multimedia content (col. 13, lines 19-28 and Fig. 8B of Jaisimha et al.); separating the multimedia content into audio content and video content (Fig. 1 of Kimura); decompressing the audio content and video content (35 and 37 of Fig. 1 of Kimura); creating an instance of a recording component to record the decompressed audio content and video content if the computer is determined to have the authority to record the multimedia content (Fig. 8B and col. 13, lines 19-28 of Jaisimha et al.); rendering to audio output the decompressed audio content and to video output the decompressed video content, with the rendering using the instance of the recording component if the computer is determined to have the authority to record the multimedia content (Fig. 8B and col. 12, lines 52-61 of Jaisimha et al.); and destroying the instance of the recording component after the multimedia content is rendered if the computer is determined not to have the authority to record the multimedia content (the user can close the RealPlayer once the rendering is complete), to record the multimedia content (Fig. 8A, Fig. 8B, and col. 12, lines 52-61 of Jaisimha et al. and Fig. 3 and Fig. 4 of Robbin); and establishing

a user interface component to the recording component (col. 13, lines 22-25 of Jaisimha), wherein the user interface component has a view associated therewith, and destroying the user interface component when a differing view of the user interface component is chosen (Fig. 3 of Jaisimha).

Consider claim 45, Jaisimha et al. teach the computer-readable medium further comprising a step of writing the decompressed audio and video content to a local file if the computer is determined to have the authority to record (col. 13, lines 19-33).

Claims 17 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2) and Horie et al. (US 2002/0094191 A1).

Consider claims 17 and 43, Jaisimha et al. teach all the limitation in claim 1 but fail to teach the method wherein the user interface component provides status as to recording and rendering states.

Horie et al. teach the method wherein the user interface component provides status as to recording and rendering states ([0089] and [0108]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide status of the recording and rendering states to show the user the progress of the recording and rendering.

1. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2) and Kimura (US

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6,744,975 B1) as applied to claim 44 above, and further in view of Horie et al. (US 2002/0094191 A1).

Consider claim 46, Jaisimha et al. and Kimura teach all the limitations in claim 44 but fail to teach the computer-readable medium further comprising a step of providing states as to recording and rendering.

Horie et al. teach the method wherein the user interface component provides status as to recording and rendering states ([0089] and [0108]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide status of the recording and rendering states to show the user the progress of the recording and rendering.

4. Claims 21, and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2), Kimura (US 6,744,975 B1), and Thompson et al. (5,091,938).

Consider claim 21, Jaisimha et al., Robbin, and Kimura teach a method implemented on a computing device by a processor configured to execute instructions, that, when executed by the processor, direct the computing device to perform acts comprising: receiving a stream of multimedia content from a source (Fig. 5 of Jaisimha et al.); determining if the computing device has an authority to record the audio content and the video content (col. 13, lines 19-28 and Fig. 8B of Jaisimha et al.), initiating a first linked set of components to process the audio content, and a second linked set of components to process the video content (col. 8, lines 28-30 and col. 9, lines 16-23 of Jaisimha et al.); creating a first recording component in the first linked set of

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components to record the audio content if the computing device is determined to have the authority to record the audio content, and a second recording component in the second linked set of components to record video content if the computing device is determined to have the authority to record the video content (col. 13, lines 19-28 and Fig. 8 of Jaisimha et al.); and providing audio output from the first linked set of components and video output from the second linked set of components (col. 12, lines 52-61 of Jaisimha et al.); and establishing a user interface component to the recording component (col. 13, lines 22-25 of Jaisimha), wherein the user interface component has a view associated therewith, and destroying the user interface component when a differing view of the user interface component is chosen (Fig. 3 of Jaisimha).

However, Jaisimha does not explicitly teach with the first recording component being omitted from the first linked set of components if the computing device is determined not to have the authority to record the audio content and the second recording component being omitted from the second linked set of components, if the computing device is determined not to have the authority to record multimedia content

Robbin teaches with the first recording component being omitted from the first linked set of components if the computing device is determined not to have the authority to record the audio content and the second recording component being omitted from the second linked set of components, if the computing device is determined not to have the authority to record multimedia content (Fig. 3 and Fig. 4 of Robbin).). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the techniques of not including the recording component in the

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linked set of components if the computing device is determined not to have the authority to record the multimedia content so that the user will be clear about whether the multimedia content can be recorded.

However, Jaisimha and Robbin do not explicitly teach separating the streamed multimedia content into audio content and video content.

Kimura teaches separating the streamed multimedia content into audio content and video content (34 of Fig. 1 of Kimura). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to separate the streamed multimedia content into audio content and video content for efficient processing.

However, Jaisimha, Robbin, and Kimura do not explicitly teach the authority to record the audio content is independent of the authority to record the video content.

Thompson teaches the authority to record the audio content is independent of the authority to record the video content (col. 24, lines 33-57 and col. 41, lines 7-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have authorities for video and audio recording to protect the video and audio from unauthorized access.

Jaisimha et al., Robbin, Kimura, and Thompson teach the claimed invention except for a first and a second linked set of components to process, record, and output video and audio contents respectively. It would have been obvious to one of ordinary skill in the art at the time the invention was made to separate the linked set of components that are able to process, record, and output video and audio contents into two linked sets of components since it has been held that constructing formerly integral

structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Consider claim 23, Jaisimha et al. teach the method wherein the receiving the stream of multimedia content is from an Internet source (Fig. 5).

Consider claim 24, Jaisimha et al. teach the method wherein the receiving the stream comprises protected multimedia content (claim 8).

Consider claim 25, Jaisimha et al. and Robbin teach the method wherein the creating is performed based on registration of the first recording component if the computing device has the authority to record audio content, and registration of the second recording component if the computing device has the authority to record video content (since the Recording component comes with the RealPlayer, it is registered to be installed in the linked set of components, col. 13, lines 19-28 of Jaisimha and Fig. 3 and Fig. 4 of Robbin).

Consider claim 26, Jaisimha et al. teach the method wherein the creating of first and second recording components is based on a predetermined protocol to allow recording of audio and video content (col. 2, lines 33-50).

Consider claim 27, Jaisimha et al. and Kimura fail to explicitly teach the method wherein the creating of the first recording component is performed when the computing device has the authority to record if audio content is not protected, and creating the second recording component is performed when the computing device has the authority if video content is not protected. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to create the first and second

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recording component as authorized to record audio and video, respectively, if they are not protected since it was known in the art that if the audio and video are not protected, they are free to record.

Consider claim 28, Jaisimha et al. teach the method wherein the creation of the first recording component is performed when the computing device has the authority to record if a predetermined protocol is established to allow audio content to be copied, and creation of the second recording component is performed when the computing device has the authority to record if the predetermined protocol is established to allow video content to be copied (Fig. 8B and col. 13, lines 19-28).

2. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jaisimha et al. (US 6,487,663 B1) in view of Robbin (US 6,731,312 B2), Kimura (US 6,744,975 B1), and Thompson et al. (5,091,938) as applied to claim 21 above, and further in view of Hazra (US 6,510,553 B1).

Consider claim 22, Jaisimha, Robbin, Kimura, and Thompson teach all the limitations in claim 21 but fail to teach the method wherein the receiving the stream of multimedia content is from a separate source on a network.

Hazra teaches the method wherein the receiving the stream of multimedia content is from a separate source on a network (Fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to receive the stream of multimedia content from a separate source on a network to decrease the receiving time of the multimedia content.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAT CHIO whose telephone number is (571)272-9563. The examiner can normally be reached on Monday - Thursday 9:00 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Examiner, Art Unit 2621

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